

When the Regional Supervisor determines that a proposed revision could result in a significant change in the impacts previously identified and evaluated or requires additional permits, the revisions shall be subject to all of the procedures in this section.

(o) To ensure safety and protection of the environment and archaeological resources, the Regional Director may authorize or direct the lessee to conduct geological, geophysical, biological, archaeological, or other surveys or monitoring programs. The lessee shall provide the Regional Director, upon request, with copies of any data obtained as a result of those surveys and monitoring programs.

(p) The lessee may not drill any well until the District Supervisor's approval of an Application for Permit to Drill (APD), submitted in accordance with the requirements of § 250.414 of this part, has been received. The District Supervisor shall not approve any APD until all affected States with approved CZM programs have concurred or have been conclusively presumed to concur with the applicant's coastal zone consistency certification accompanying a plan, or the Secretary of Commerce has made the finding authorized by section 307(c)(3)(B)(iii) of the CZMA. The APD's must conform to the activities described in detail in the approved Exploration Plan and shall not be subject to a separate State coastal zone consistency review.

(q) Nothing in this section or in an approved plan shall limit the lessee's responsibility to take appropriate measures to meet emergency situations. In such situations, the Regional Supervisor may approve or require departures from an approved Exploration Plan.

[53 FR 10690, Apr. 1, 1988; 53 FR 26067, July 11, 1988, as amended at 54 FR 50616, Dec. 8, 1989; 59 FR 53093, Oct. 21, 1994; 62 FR 13996, Mar. 25, 1997. Redesignated and amended at 63 FR 29479, 29485, May 29, 1998; 64 FR 53200, Oct. 1, 1999; 64 FR 72794, Dec. 28, 1999]

§ 250.204 Development and Production Plan.

(a) The lessee shall submit for approval a Development and Production Plan which includes the following:

(1) A description of and schedule for the development and production activities to be performed including plan commencement date, date of first production, total time to complete all development and production activities, and dates and sequences for drilling wells and installing facilities and equipment.

(2) A description of any drilling vessels, platforms, pipelines, or other facilities and operations located offshore which are proposed or known by the lessee (whether or not owned or operated by the lessee) to be directly related to the proposed development, including the location, size, design, and important safety, pollution prevention, and environmental monitoring features of the facilities and operations.

(b) The lessee shall submit the following supporting information to accompany the Development and Production Plan:

(1) Geological and geophysical (G&G) data and information, including the following:

(i) A plat showing the surface location of any proposed fixed structure or well.

(ii) A plat showing the surface and bottomhole locations and giving the measured and true vertical depths for each proposed well.

(iii) Current interpretations of relevant G&G data.

(iv) Current structure map(s) showing the surface and bottomhole location of each proposed well and the depths of expected productive formations.

(v) Interpreted structure sections showing the depths of expected productive formations.

(vi) A bathymetric map showing surface locations of fixed structures and wells or a table of water depths at each proposed site.

(vii) A discussion of seafloor conditions including a shallow hazards analysis for proposed drilling and platform sites and pipeline routes. This information shall be derived from the shallow hazards report required by § 250.909 of this part.

(2) Information concerning the presence of H₂S and proposed precautionary measures, including the following:

(i) A classification of the lease area as to whether it is within an area known to contain H₂S, an area where the presence of H₂S is unknown, or an area where the absence of H₂S has been confirmed as described in §250.417 of this part and the documentation supporting the classification; or

(ii) If the classification is an area known to contain H₂S or an area where the presence of H₂S is unknown, an H₂S Contingency Plan as required in §250.417 of this part.

(3) A description of the environmental safeguards to be implemented, including an updated oil-spill response plan as described in part 254 of this chapter or reference to an approved plan.

(4) A discussion of the steps that have been or will be taken to satisfy the conditions of lease stipulations.

(5)(i) A description of technology and reservoir engineering practices intended to increase the ultimate recovery of oil and gas, i.e., secondary, tertiary, or other enhanced recovery practices;

(ii) A description of technology and recovery practices and procedures intended to assure optimum recovery of sulphur; or

(iii) A description of technology and recovery practices and procedures intended to assure optimum recovery of oil and gas and sulphur.

(6) A discussion of the proposed drilling and completion programs.

(7) A detailed description of new or unusual technology to be employed. The lessee shall indicate which portions of the information the lessee believes are exempt from disclosure under the FOIA (5 U.S.C. 552) and the implementing regulations (43 CFR part 2). The lessee shall include a written discussion of the general subject matter of the deleted portions for transmittal to recipients of plan copies.

(8) A brief description of the following:

(i) The location, description, and size of any offshore, and to the maximum extent practicable, land-based operations to be conducted or contracted for as a result of the proposed activity, including the following:

(A) The acreage required within a State for facilities, rights-of-way, and easements.

(B) The means proposed for transportation of oil, gas, and sulphur to shore; the routes to be followed by each mode of transportation; and the estimated quantities of oil, gas, and sulphur to be moved along such routes.

(C) An estimate of the frequency of boat and aircraft departures and arrivals, the onshore location of terminals, and the normal routes for each mode of transportation.

(ii) A list of the proposed drilling fluids including components and their chemical compositions, information on the projected amounts and rates of drilling fluid and cuttings discharges, and method of disposal. If the information is provided in an approved Environmental Protection Agency, National Pollutant Discharge Elimination System permit, or a pending permit application, the lessee may reference these documents.

(iii) The quantities, types, and plans for disposal of other solid and liquid wastes and pollutants likely to be generated by offshore, onshore, and transport operations and, regarding any wastes which may require onshore disposal, the means of transportation to be used to bring the wastes to shore, disposal methods to be utilized, and location of onshore waste disposal or treatment facilities.

(iv) The following information on onshore support facilities, except in the western GOM:

(A) The approximate number, timing, and duration of employment of persons who will be engaged in onshore development and production activities, an approximate number of local personnel who will be employed for or in support of the development activities (classified by the major skills or crafts that will be required from local sources and estimated number of each such skill needed), and the approximate total number of persons who will be employed during the onshore construction activity and during all activities related to offshore development and production.

(B) The approximate number of people and families to be added to the population of local nearshore areas as a result of the planned development.

(C) An estimate of significant quantities of energy and resources to be used or consumed including electricity, water, oil and gas, diesel fuel, aggregate, or other supplies which may be purchased within an affected State.

(D) The types of contractors or vendors which will be needed, although not specifically identified, and which may place a demand on local goods and services.

(E) The source, composition, frequency, and duration of emissions of air pollutants.

(v) A narrative description of the existing environment with an emphasis placed on those environmental values that may be affected by the proposed action. This section shall contain a description of the physical environment of the area covered by the related plan. This portion of the plan shall include data and information obtained or developed by the lessee together with other pertinent information and data available to the lessee from other sources. The environmental information and data shall include the following, where appropriate:

(A) If the Regional Director believes that an archaeological resource may exist in the lease area, the Regional Director will notify the lessee in writing. Prior to commencing any operations, the lessee shall prepare a report, as specified by the Regional Director, to determine the potential existence of any archaeological resource that may be affected by operations. The report shall be prepared by an archaeologist and geophysicist and shall be based on an assessment of data from remote-sensing surveys and of other pertinent archaeological and environmental information.

(B) The aquatic biota, including a description of fishery and marine mammal use of the lease and the significance of the lease, and a description of any threatened and endangered species and their critical habitat. The results of any biological surveys required by the Regional Supervisor (including a copy of survey reports or references to

previously submitted reports) should be incorporated into these discussions.

(C) Environmentally sensitive areas (e.g., refuges, preserves, sanctuaries, rookeries, calving grounds, coastal habitat, beaches, and areas of particular environmental concern) which may be affected by the proposed activities.

(D) The predevelopment, ambient water-column quality and temperature data for incremental depths for the areas encompassed by the plan.

(E) The physical oceanography, including ocean currents described as to prevailing direction, seasonal variations, and variations at different water depths in the lease.

(F) Historic weather patterns and other meteorological conditions, including storm frequency and magnitude, wave height and direction, wind direction and velocity, air temperature, visibility, freezing and icing conditions, and ambient air quality listing, where possible, the means and extremes of each.

(G) The other uses of the area known to the lessee, including military use for national security or defense, subsistence hunting and fishing, commercial fishing, recreation, shipping, and other mineral exploration or development.

(H) The existing or planned monitoring systems that are measuring or will measure impacts of activities on the environment in the planning area.

(9) For sulphur operations, the degree of subsidence that is expected at various stages of production, and measures that will be taken to assure safety of operations and protection of the environment. Special attention shall be given to the effects of subsidence on existing or potential oil and gas production, fixed bottom-founded structures, and pipelines.

(10) For sulphur operations, a discussion of the potential toxic or thermal effects on the environment caused by the discharge of bleedwater, including a description of the measures that will be taken into account to mitigate these impacts.

(11) An assessment of the effects on the environment expected to occur as a result of implementation of the plan, identifying specific and cumulative impacts that may occur both onshore and

offshore, and the measures proposed to mitigate these impacts. Such impacts shall be quantified to the fullest extent possible including magnitude and duration and shall be accumulated for all activities for each of the major elements of the environment (e.g., water or biota).

(12) A discussion of alternatives to the activities proposed that were considered during the development of the plan including a comparison of the environmental effects.

(13) Certificate(s) of coastal zone consistency as provided in 15 CFR part 930.

(14) For each OCS facility, such information described below needed to make the findings under § 250.303 or § 250.304 of this part:

(i)(A) Projected emissions from each proposed or modified facility for each year of operation and basis for all calculations to include the following:

(1) For each source, the amount of the emission by air pollutant expressed in tons per year and frequency and duration of emissions;

(2) For each proposed facility, the total amount of emissions by air pollutant expressed in tons per year, the frequency distribution of total emissions by air pollutant expressed in pounds per day and, in addition for a modified facility only, the incremental amount of total emissions by air pollutant resulting from the new or modified source(s);

(3) A detailed description of all processes, processing equipment, and storage units, including information on fuels to be burned;

(4) A schematic drawing which identifies the location and elevation of each source; and

(5) If projected emissions are based on the use of emission-reduction control technology, a description of the controls providing the information required by paragraph (b)(12)(iv)(A) of this section.

(B) The distance of each proposed facility from the mean high water mark (mean higher high water mark on the Pacific coast) of any State.

(ii)(A) The model(s) used to determine the effect on the onshore air quality of emissions from each facility, or from other facilities when required by the Regional Supervisor, and the result

obtained through the use of the model(s). Only model(s) that has been approved by the Director may be used.

(B) The best available meteorological information and data consistent with the model(s) used stating the basis for the information and data selected.

(iii) The air quality status of any onshore area where the air quality is significantly affected (within the meaning of § 250.303 of this part) by projected emissions from each facility proposed in the plan. The area should be classified as nonattainment, attainment, or unclassifiable listing the status of each area by air pollutant, the class of attainment areas, and the air pollution control agency whose jurisdiction covers the area identified.

(iv)(A) The emission-reduction controls available to reduce emissions including the source, emission-reduction control technology, reductions to be achieved, and monitoring system the lessee proposes to use to measure emissions. The lessee shall indicate which emission-reduction control technology the lessee believes constitutes the best available control technology and the basis for that opinion.

(B) The ownership of the offshore and onshore offsetting source(s) and the reduction obtainable from each offsetting source.

(15) A brief discussion of any approved or anticipated suspensions of production necessary to hold the lease(s) in an active status.

(16) The name, address, and telephone number of an individual employee of the lessee to whom inquiries by the Regional Supervisor and the affected State(s) may be directed.

(17) Such other data and information as the Regional Supervisor may require.

(c) Data and information discussed in other documents previously submitted to MMS or otherwise readily available to reviewers may be incorporated by reference. The material being incorporated shall be cited and described briefly and include a statement of where the material is available for inspection. Any material based on proprietary data which is not itself available for inspection shall not be incorporated by reference.

(d)(1) Development and Production Plans are not required for leases in the western GOM. For these leases, the lessee shall submit to the Regional Supervisor for approval a Development Operations Coordination Document with all information necessary to assure conformance with the Act, other laws, applicable regulations, lease provisions, or as otherwise needed to carry out the functions and responsibilities of the Regional Supervisor.

(2) Any information required in paragraph (d)(1) of this section shall be considered a Development and Production Plan for the purpose of references in any law, regulation, lease provision, agreement, or other document referring to the preparation or submission of a plan.

(e) The Regional Director, after consultation with the Governor(s) of the affected State(s) or the Governor's designated representative, the CZM agency of the affected State(s), and the Office of Ocean and Coastal Resource Management of NOAA may limit the amount of information required to be included in a Development and Production Plan to that necessary to assure conformance with the Act, other laws, applicable regulations, and lease provisions. In determining the information to be included in a plan, the Regional Director shall consider current and expected operating conditions together with experience gained during past operations of a similar nature in the area of proposed activities.

(f) The Regional Supervisor shall determine within 20 working days after receipt whether additional material is needed. If no deficiencies are identified and the requested number of copies have been received, the plan shall be deemed submitted.

(g) Within 5 working days after a Development and Production Plan has been deemed submitted, the Regional Supervisor shall transmit a copy of the plan, except for those portions of the plan determined to be exempt from disclosure under the FOIA and the implementing regulations (43 CFR part 2), to the Governor or the Governor's designated representative and the CZM agency of each affected State and to the executive of each affected local government that requests a copy. The

Regional Supervisor shall make copies available to appropriate Federal Agencies, interstate entities, and the public. The plan will be available for review at the appropriate MMS Regional Public Information Office.

(h) The Governor or the Governor's designated representative and the CZM agency of each affected State and the executive of each affected local government shall have 60 days from the date of receipt of the Development and Production Plan to submit comments and recommendations to the Regional Supervisor. The executive of any affected local government must forward all recommendations to the Governor of the State prior to submitting them to the Regional Supervisor. The Regional Supervisor shall accept those recommendations from the Governor that provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. The Regional Supervisor shall explain in writing the reasons for accepting or rejecting any recommendations. In addition, any interested Federal Agency or person may submit comments and recommendations to the Regional Supervisor. All comments and recommendations shall be made available to the public.

(i) We will process the plan according to this section and 15 CFR part 930. Accordingly, consistency review begins when the State's CZM agency receives a copy of the deemed submitted plan, consistency certification, and required necessary data and information as directed by 15 CFR 930.78.

(j) The Regional Supervisor will evaluate the environmental impact of the activities described in the Development and Production Plan (DPP) and prepare the appropriate environmental documentation required by the National Environmental Policy Act of 1969. At least once in each planning area (other than the western and central Gulf of Mexico planning areas), we will prepare an environmental impact statement (EIS) and send copies of the draft EIS to the Governor of each affected State and the executive of each affected local government that requests a copy. Additionally, when we prepare a DPP EIS and when the State's federally approved coastal

management program requires a DPP NEPA document for use in determining consistency, we will forward a copy of the draft EIS to the State's CZM Agency. We will also make copies of the draft EIS available to any appropriate Federal Agency, interstate entity, and the public.

(k) Prior to or immediately after a determination by the Director that approval of a Development and Production Plan requires that the procedures under NEPA shall commence, the Regional Supervisor may require lessees of tracts in the vicinity, for which Development and Production Plans have not been approved, to submit preliminary or final plans for their leases.

(l) No later than 60 days after the last day of the comment period provided in paragraph (h) of this section or within 60 days of the release of the final EIS describing the proposed activities, the Regional Supervisor shall accomplish the following:

(1) Approve the plan;

(2) Require modification of the plan if it is determined that the lessee has failed to make adequate provisions for safety, environmental protection, or conservation of resources including compliance with the regulations prescribed under the Act; or

(3) Disapprove the plan if one or more of the following occurs:

(i) The lessee fails to demonstrate that compliance with the requirements of the Act, provisions of the regulations prescribed under the Act, or other applicable Federal laws is possible;

(ii) State concurrence with the applicant's coastal zone consistency certification has not been received, the State's concurrence has not been conclusively presumed, or the State objects to the consistency certification, and the Secretary of Commerce does not make the determination authorized by section 307(c)(3)(B)(iii) of the CZMA;

(iii) Operations threaten national security or defense; or

(iv) Exceptional geological conditions in the lease area, exceptional resource value in the marine or coastal environment, or other exceptional circumstances exist, and all of the following:

(A) Implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), property, any mineral deposits (in areas leased or not leased), the national security or defense, or to the marine, coastal, or human environments.

(B) The threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time.

(C) The advantages of disapproving the plan outweigh the advantages of development and production.

(m) The Regional Supervisor shall notify the lessee in writing of the reason(s) for disapproving a Development and Production Plan or for requiring modification of a plan and the conditions which must be met for plan approval.

(n) The lessee may resubmit a Development and Production Plan, as modified, to the Regional Supervisor. Only information related to the proposed modifications need be submitted. Within 60 days following the 60-day comment period provided for in paragraph (h) of this section, the Regional Supervisor shall approve, disapprove, or require modification of the modified plan.

(o)(1) If a Development and Production Plan is disapproved for the sole reason that a State consistency certification has not been obtained, the Regional Supervisor shall approve the plan upon receipt of the concurrence, at the time when concurrence is conclusively presumed, or when the Secretary of Commerce makes a finding authorized by section 307(c)(3)(B)(iii) of the CZMA.

(2) If a Development and Production Plan is disapproved because a State objects to the lessee's coastal zone consistency certification, the lessee shall modify the plan to accommodate the State's objection(s) and resubmit the plan to (i) the Regional Supervisor for review pursuant to the criteria in paragraph (l) of this section; and (ii) through the Regional Supervisor, to the State for review pursuant to the CZMA and the implementing regulations (15 CFR 930.83 and 930.84). Alternatively, the lessee may appeal the State's objection to the Secretary of

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Commerce pursuant to the procedures described in section 307 of the CZMA and the implementing regulations (subpart H of 15 CFR part 930). The Regional Supervisor shall approve, disapprove, or require modification of a plan as revised within 60 days following the 60-day comment period provided for in paragraph (h) of this section.

(p) Development and Production Plans disapproved pursuant to paragraph (l)(3) of this section are subject to the provisions of section 25(h)(2) of the Act and the implementing regulations in §§250.183 and 256.77 of this chapter.

(q)(1) The Regional Supervisor shall periodically review the activities being conducted under an approved Development and Production Plan. The frequency and extent of the Regional Supervisor's review shall be based upon the significance of any changes in available information and onshore or offshore conditions affecting or impacted by development or production activities being conducted pursuant to the plan. If the review indicates that the plan should be revised to meet the requirements of this part, the Regional Supervisor shall require the needed revisions.

(2) Revisions to an approved or pending Development and Production Plan, whether initiated by the lessee or ordered by the Regional Supervisor, shall be submitted to the Regional Supervisor for approval. Only information related to the proposed revisions need be submitted. When the Regional Supervisor determines that a proposed revision could result in a significant change in the impacts previously identified and evaluated, requires additional permits, or proposes activities not previously identified and evaluated, the revision shall be subject to all of the procedures in this section.

(3) When any revision to an approved Development and Production Plan is proposed by the lessee, the Regional Supervisor may approve the revision if it is determined that the revision is consistent with the protection of the marine, coastal, and human environments and will lead to greater recovery of oil and natural gas; will improve the efficiency, safety, and environmental protection of the recovery operation; is

the only means available to avoid substantial economic hardship to the lessee; or is otherwise not inconsistent with the provisions of the Act.

(r) Whenever the lessee fails to submit a Development and Production Plan in accordance with provisions of this section or fails to comply with an approved plan, the lease may be cancelled in accordance with sections 5 (c) and (d) of the Act and the implementing regulations in §§250.183 and 256.77 of this chapter.

(s) To ensure safety and protection of the environment and archaeological resources, the Regional Director may authorize or direct the lessee to conduct geological, geophysical, biological, archaeological, or other surveys or monitoring programs. The lessee shall provide the Regional Director, upon request, copies of any data obtained as a result of those surveys and monitoring programs.

(t) The lessee may not drill any well until the District Supervisor's approval of an APD, filed in accordance with the requirements of §250.414 of this part, has been received. All APD's and applications to install platforms and structures, pipelines, and production equipment must conform to the activities described in detail in the approved Development and Production Plan and shall not be subject to a separate State coastal zone consistency review.

(u) Nothing in this section or approved plans shall limit the lessee's responsibility to take appropriate measures to meet emergency situations. In such situations, the Regional Supervisor may approve or require departures from an approved Development and Production Plan.

[53 FR 10690, Apr. 1, 1988; 53 FR 26067, July 11, 1988, as amended at 54 FR 50616, Dec. 8, 1989; 55 FR 47752, Nov. 15, 1990; 56 FR 32099, July 15, 1991; 59 FR 53093, Oct. 21, 1994; 62 FR 13996, Mar. 25, 1997. Redesignated and amended at 63 FR 29479, 29485, May 29, 1998; 64 FR 9065, Feb. 24, 1999; 64 FR 53200, Oct. 1, 1999; 64 FR 72794, Dec. 28, 1999]

Subpart C—Pollution Prevention and Control

§ 250.300 Pollution prevention.

(a) During the exploration, development, production, and transportation